

10-11-05

ZZW/
DAC/B



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF : Spivak et al.
FOR : **SPRAY BOOTH METHOD AND APPARATUS**
SERIAL NO. : 10/805,689
FILED : March 22, 2004
LAST OFFICE ACTION : N/A
EXAMINER : N/A
GROUP ART UNIT : 3752
ATTORNEY DOCKET NO. : 31399.25504

Akron, Ohio 44311-4407
Customer #26781

CERTIFICATE OF MAILING

I hereby certify that this **RENEWED PETITION FOR FILING BY OTHER THAN ALL OF THE INVENTORS UNDER 37 C.F.R. §1.47(a)** is being deposited with the United States Postal Service as "Express Mail," Express Mail No. EV587421674US addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the following date.

October 7, 2005

By: Shelly L. Davis
Shelly L. Davis

RENEWED PETITION FOR FILING BY OTHER THAN ALL OF THE INVENTORS UNDER 37 C.F.R. §1.47(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants, Nicholas J. Mastandrea, Scott R. Thomason, Timothy Niedel and Paul Spivak hereby petition the Commissioner to accept the filing of the above-identified Renewed Petition under 37 C.F.R. § 1.47 (a) for the purpose of considering Applicant's petition to correct inventorship in a patent application under 37 C.F.R. § 1.48, a copy of which has been included herewith as Exhibit I. An affidavit signed by Deron A. Cook is attached hereto as Exhibit II providing background and proof of the pertinent facts concerning the investigation into the inventorship entity of the present application for patent.

Please note, Applicants do not wish, at this time, for the Application to be accepted without the signature of inventor, Paul Spivak. Rather, Applicants are renewing the Petition under § 1.47(a) to introduce a corrective amendment clarifying the inventorship entity, which necessitates the removal of Timothy Niedel as an inventor in the subjection application. The issue of whether Tim Niedel is an inventor of the present application has been the subject of some dispute, and question leading to Paul Spivak's unwillingness to initially sign the Oath and Declaration. Inventors Mastandrea, Thomason and Spivak and Timothy Niedel now fully agree and understand that Mr. Niedel is not an inventor and therefore should be removed from the subject application.

In conjunction with this renewed Petition under 37 C.F.R. § 1.47(a), Applicants have provided herewith the Petition under 37 C.F.R. § 1.48 to correct inventorship, an executed Oath and Declaration signed by inventors Mastandrea, Thomason and Spivak, statements under 37 C.F.R. § 1.342(a)(b)(1) from inventors Mastandrea, Thomason, Spivak agreeing that Mr. Niedel should be removed as an inventor and that the initial inclusion of Mr. Niedel was not done with

an intent to deceive, and a statement under 37 C.F.R. § 1.342(b)(2) from Timothy Nidel agreeing that he is not an inventor and should be removed the subject application.

In light of the universal consensus between all the affected parties that the inventorship entity of the present application includes only Mr. Mastandrea, Mr. Thomason and Mr. Spivak, Applicants respectfully request that the Amendment under 37 C.F.R. § 1.48 be accepted and approved in replacement of the Petition herein renewed.

Please charge any fees, additional fees due, or credit any overpayment, to Deposit Account No. 501210.

Respectfully submitted,

BROUSE MCDOWELL



Deron A. Cook
Reg. No. 52,767
Customer #26781

10/7/05
Date

Telephone No.: (330) 535-5711
Fax No.: (330) 253-8601



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF : Spivak et al.
FOR : **SPRAY BOOTH METHOD AND APPARATUS**
SERIAL NO. : 10/805,689
FILED : March 22, 2004
LAST OFFICE ACTION : N/A
EXAMINER : N/A
GROUP ART UNIT : 3752
ATTORNEY DOCKET NO. : 31399.25504

Akron, Ohio 44311-4407
Customer #26781

CERTIFICATE OF MAILING

I hereby certify that this **PETITION UNDER 37 C.F.R. § 1.48 FOR CORRECTION OF INVENTORSHIP IN A PATENT APPLICATION, OTHER THAN A REISSUE APPLICATION, PURSUANT TO 35 U.S.C. § 116** is being deposited with the United States Postal Service as "Express Mail," Express Mail No. EV587421674US addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the following date.

October 7, 2005
Date

Shelly L. Davis
Shelly L. Davis

PETITION UNDER 37 C.F.R. § 1.48 FOR CORRECTION OF INVENTORSHIP IN A PATENT APPLICATION, OTHER THAN A REISSUE APPLICATION, PURSUANT TO 35 U.S.C. § 116

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

10/12/2005 HLE333 00000015 501210 10805689

01 FC:1463 200.00 DA

Dear Sir:

Applicants hereby respectfully request that the subject application be amended to correct inventorship; namely, to remove Timothy Niedel as a co-inventor. This Petition has been filed in conjunction with Applicants' Renewed Petition under 37 C.F.R. § 1.47(a) and reflects efforts taken by and behalf of Applicants to clarify and resolve questions concerning the inventorship entity.

Enclosed herewith are statements under 37 C.F.R. § 1.324(b)(2) from each co-inventor and a statement under 37 C.F.R. § 1.324(b)(1) from Mr. Niedel, consenting to the removal of Timothy Niedel as a named inventor and stating that the error was made without deceptive invent.

By consensus of all the parties affected, the co-inventors are:

Paul Spivak, 32251 Walker Road, Avon Lake, OH 44012

Scott R. Thomason, 1176 River Run Drive, Macedonia, OH 44056

Nicholas J. Mastandrea, 14333 Bass Lake Road, Newbury, OH 44065

A revised oath signed by each of the three inventors in accordance with 37 C.F.R. § 1.63 has been submitted herewith.

The processing fee of \$130 has been submitted in accordance with 37 C.F.R. § 1.17(i).

☒ Please charge Deposit Account No. 501210 for the processing fee in accordance with 37 C.F.R. 1.17(i) in the amount of \$130.


☒ Please charge any additional fees due, or credit any overpayment, to Deposit Account No. 501210.

Respectfully submitted,

BROUSE MCDOWELL

Date 10/7/05

Telephone No.: (330) 535-5711
Fax No.: (330) 253-8601



Deron A. Cook
Reg. No. 52,767
Customer #26781



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLN. NO. : 11//805,689
FILING DATE : March 22, 2004
PATENT NO. : N/A
ISSUE DATE : N/A
APPLICANT : Paul Spivak, Nicholas J. Mastandrea, and
Scott R. Thomason
TITLE OF INVENTION : **SPRAY BOOTH METHOD AND
APPARATUS**
AGENT'S FILE REFERENCE : 31399.25504

Akron, Ohio 44311-4407
Customer #26781

CERTIFICATE OF MAILING

I hereby certify that this **STATEMENT ATTESTING THAT THE INVENTORSHIP ERROR OCCURRED WITHOUT DECEPTIVE INTENT ON THE PART OF THE DELETED INVENTOR IN ACCORDANCE WITH THE PROVISIONS OF 37 C.F.R. § 1.324(b)(1)** is being deposited with the United States Postal Service as "Express Mail," Express Mail No. EV587421674US addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 7th day of October, 2005.

By: _____

Shelly L. Davis
Shelly L. Davis

**STATEMENT ATTESTING THAT THE INVENTORSHIP ERROR OCCURRED
WITHOUT DECEPTIVE INTENT ON THE PART OF THE DELETED INVENTORS IN
ACCORDANCE WITH THE PROVISIONS OF 37 C.F.R. § 1.324(b)(1)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

By this STATEMENT applicant desires to establish that the inventorship error in the above-identified U.S. Patent occurred without deceptive intent on the part of the omitted inventor.

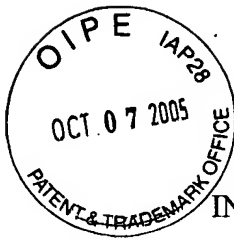
I, Timothy Niedel, do hereby state:

The inventorship error of incorrectly including myself, Timothy Niedel, as an inventor of the patent occurred without any deceptive intention on the part of myself, the new applicant.

Respectfully submitted,

9-22-05
Date

Timothy Niedel
Timothy Niedel
806 Trevitt Circle North
Euclid, OH 44143



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO. : 10/805,689
FILING DATE : March 22, 2004
PATENT NO. : N/A
ISSUE DATE : N/A
INVENTOR(S) : Paul Spivak, Nicholas J. Mastandrea, and
Scott R. Thomason
TITLE OF INVENTION : **SPRAY BOOTH METHOD AND
APPARATUS**
AGENT'S FILE REFERENCE : 31399.25504

Akron, Ohio 44311-4407

Customer #26781

CERTIFICATE OF MAILING

I hereby certify that this **STATEMENT OF CURRENT NAMED INVENTOR
AGREEING TO THE CHANGE OF INVENTORSHIP AS REQUIRED BY 37
C.F.R. § 1.324(b)(2)** is being deposited with the United States Postal Service as "Express
Mail," Express Mail No. EV587421674US addressed to: Commissioner for Patents, P.O.
Box 1450, Alexandria, VA 22313-1450, on this 7th day of October, 2005.

By: Shelly L. Davis
Shelly L. Davis

.....
**STATEMENT OF CURRENT NAMED INVENTOR AGREEING TO THE
CHANGE OF INVENTORSHIP IN ACCORDANCE WITH 37 C.F.R. § 1.324(b)(2)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

By this STATEMENT Applicants desire to establish that the inventorship error in the above-identified application occurred without deceptive intent.

The following inventors hereby states:

The inventorship error of including Timothy Nidel as an inventor of the invention for the subject application occurred without any deceptive intention and we hereby acknowledge and agree with the change of inventorship; namely, the removal of Timothy Nidel as an inventor.

Respectfully submitted,

9-15-05
Date

Paul Spivak
Paul Spivak

Date

Nicholas J. Mastandrea

Date

Scott R. Thomason



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO. : 10/805,689
FILING DATE : March 22, 2004
PATENT NO. : N/A
ISSUE DATE : N/A
INVENTOR(S) : Paul Spivak, Nicholas J. Mastandrea, and
Scott R. Thomason
TITLE OF INVENTION : **SPRAY BOOTH METHOD AND
APPARATUS**
AGENT'S FILE REFERENCE : 31399.25504

Akron, Ohio 44311-4407

Customer #26781

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Box 1450, Alexandria, VA 22313-1450, on this 7th day of October, 2005.

By: Shelly L. Davis
Shelly L. Davis

.....
**STATEMENT OF CURRENT NAMED INVENTOR AGREEING TO THE
CHANGE OF INVENTORSHIP IN ACCORDANCE WITH 37 C.F.R. § 1.324(b)(2)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

By this STATEMENT Applicants desire to establish that the inventorship error in the above-identified application occurred without deceptive intent.

The following inventors hereby states:

The inventorship error of including Timothy Nidel as an inventor of the invention for the subject application occurred without any deceptive intention and we hereby acknowledge and agree with the change of inventorship; namely, the removal of Timothy Nidel as an inventor.

Respectfully submitted,

Date

Paul Spivak

Date

Nicholas J. Mastandrea

10/05/2005
Date

Scott R. Thomason
Scott R. Thomason



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO. : 10/805,689
FILING DATE : March 22, 2004
PATENT NO. : N/A
ISSUE DATE : N/A
INVENTOR(S) : Paul Spivak, Nicholas J. Mastandrea, and
Scott R. Thomason
TITLE OF INVENTION : **SPRAY BOOTH METHOD AND
APPARATUS**
AGENT'S FILE REFERENCE : 31399.25504

Akron, Ohio 44311-4407

Customer #26781

CERTIFICATE OF MAILING

I hereby certify that this **STATEMENT OF CURRENT NAMED INVENTOR
AGREEING TO THE CHANGE OF INVENTORSHIP AS REQUIRED BY 37
C.F.R. § 1.324(b)(2)** is being deposited with the United States Postal Service as "Express
Mail," Express Mail No. EV587421674US addressed to: Commissioner for Patents, P.O.
Box 1450, Alexandria, VA 22313-1450, on this 10th day of October 2005.

By: Shelly L. Davis
Shelly L. Davis

.....
**STATEMENT OF CURRENT NAMED INVENTOR AGREEING TO THE
CHANGE OF INVENTORSHIP IN ACCORDANCE WITH 37 C.F.R. § 1.324(b)(2)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

By this STATEMENT Applicants desire to establish that the inventorship error in the above-identified application occurred without deceptive intent.

The following inventors hereby states:

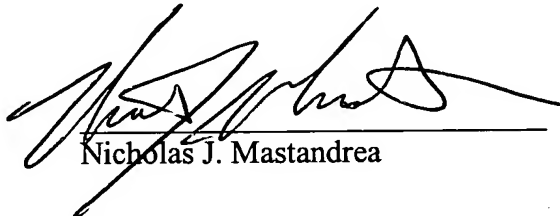
The inventorship error of including Timothy Niedel as an inventor of the invention for the subject application occurred without any deceptive intention and we hereby acknowledge and agree with the change of inventorship; namely, the removal of Timothy Niedel as an inventor.

Respectfully submitted,

Date

10/05/05
Date

Paul Spivak



Nicholas J. Mastandrea

Date

Scott R. Thomason



PATENT

Attorney's Docket No. **31399.25504**

=====

COMBINED DECLARATION AND POWER OF ATTORNEY

(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL,
CONTINUATION OR CIP)

=====

As a below named inventor, I hereby declare that this declaration is of the following type: (check one applicable item below)

- ☐ original
- ☐ design
- ☐ supplemental

[NOTE: If the declaration is for an International Application being filed as a divisional, continuation or continuation-in-part application do not check next item; check appropriate one of last three items.]

- ☐ national stage of PCT

[NOTE: If one of the following 3 items apply then complete and also attach ADDED PAGES FOR DIVISIONAL, CONTINUATION OR CIP.]

- ☐ divisional
- ☐ continuation
- ☐ continuation-in-part (CIP)

INVENTORSHIP IDENTIFICATION

[WARNING: If the inventors are each not the inventors of all the claims an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.]

My residence, post office address and citizenship are as stated below next to my name, I believe I am the original, first and sole inventor or an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

SPRAY BOOTH METHOD AND APPARATUS

SPECIFICATION IDENTIFICATION

The specification of which: (complete (a), (b) or (c))

- (a) ☐ is attached hereto.
- (b) ☐ was filed on _____, Serial No. 0 / _____, by Express Mail No. _____; or
- ☐ was filed on _____, Serial No. not yet know, by Express Mail No. _____; or as
- (c) ☐ was described and claimed in PCT International Application No. _____ filed on _____ and as amended under PCT Article 19 on _____(if any).

[NOTE: Amendments filed after the original papers are deposited with the PTO which contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 CFR 1.67.]

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

☐ In compliance with this duty there is attached an information disclosure statement, 37 CFR 1.97.

CLAIM PRIORITY TO FOREIGN APPLICATION

I hereby claim foreign priority benefits under Title 35, United States Code '119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

(complete (d) or (e))

(d) ☐ no such applications have been filed.

(e) ☐ such applications have been filed as follows.

[NOTE: Where item (c) is entered above and the International Application which designated the U.S. claimed priority check item (e), enter the details below and make the priority claim.]

**EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**

COUNTRY	APPLICATION No.	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 USC 119
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

**ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**

CLAIM PRIORITY OF PROVISIONAL APPLICATION

I hereby claim domestic priority benefits under Title 37, Code of Federal Regulations § 1.78 (a)(3)-(4) of any provisional application(s) filed in accordance with Title 35, United States Code § 111(b) and Title 37, Code of Federal Regulations § 1.51(a)(2) and § 1.53(b)(2).

(complete (f) or (g))

(f) ☐ no such provisional applications have been filed.

(g) ☐ such provisional applications have been filed as follows:

[NOTE: Where item (g) is entered above, enter the details below and make the priority claim.]

DOMESTIC (PROVISIONAL) APPLICATION(S), IF ANY, FILED WITHIN 12 MONTHS PRIOR TO THIS NON-PROVISIONAL U.S. APPLICATION

PROVISIONAL APPLICATION SERIAL NO.	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 CFR § 1.78(a)(4)
60/456,744	21 March 2003	<input type="checkbox"/> YES <input type="checkbox"/> NO
		<input type="checkbox"/> YES <input type="checkbox"/> NO
		<input type="checkbox"/> YES <input type="checkbox"/> NO
		<input type="checkbox"/> YES <input type="checkbox"/> NO

CLAIM PRIORITY OF NON-PROVISIONAL APPLICATION

I hereby claim domestic priority benefits under Title 37, Code of Federal Regulations § 1.78 (a)(1)-(2) of any non-provisional application(s) filed in accordance with Title 35, United States Code § 111(b) and Title 37, Code of Federal Regulations § 1.51(a)(2) and § 1.53(b)(2).

(complete (f) or (g))

(f) ☐ no such non-provisional applications have been filed.

(g) ☐ such non-provisional applications have been filed as follows:

[NOTE: Where item (g) is entered above, enter the details below and make the priority claim.]

DOMESTIC (NON-PROVISIONAL) APPLICATION(S), IF ANY, FILED WITHIN 12 MONTHS PRIOR TO THIS NON-PROVISIONAL U.S. APPLICATION

NON-PROVISIONAL APPLICATION SERIAL NO.	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 CFR § 1.78(a)(1)-(2)
		<input type="checkbox"/> YES <input type="checkbox"/> NO
		<input type="checkbox"/> YES <input type="checkbox"/> NO
		<input type="checkbox"/> YES <input type="checkbox"/> NO
		<input type="checkbox"/> YES <input type="checkbox"/> NO

POWER OF ATTORNEY

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Roger D. Emerson, Esq.

33,169

(check the following item, if applicable)

☐ Attached as part of this declaration and power of attorney is the authorization of the above-named attorney(s) to accept and follow instructions from my representative(s).

SEND CORRESPONDENCE TO

Deron A. Cook
Brouse McDowell, LPA
388 S. Main Street, Ste. 500
Akron, Ohio 44311-4407

DIRECT TELEPHONE CALLS TO:

Deron A. Cook
Phone: (330) 535-5711
Facsimile: (330) 253-8601

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

Full name of first **co-inventor**:

Paul Spivak

Date: 9-29-05

Inventor's signature: 

Country of Citizenship: USA

Residence: 32251 Walker Road, Avon Lake, OH 44012

Post Office Address: 32251 Walker Road, Avon Lake, OH 44012

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

Full name of second **co-inventor**:

Nicholas J. Mastandrea

Date: 10/05/05

Inventor's signature: 

Country of Citizenship: USA

Residence: 14333 Bass Lake Road, Newbury, OH 44065

Post Office Address: 14333 Bass Lake Road, Newbury, OH 44065

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

Full name of third co-inventor:

Scott R. Thomason

Date: 10/5/2005

Inventor's signature: Scott R. Thomason

Country of Citizenship: USA

Residence: 1176 River Run Drive, Macedonia, OH 44056

Post Office Address: 1176 River Run Drive, Macedonia, OH 44056

CHECK PROPER BOX(ES) FOR ANY OF THE FOLLOWING ADDED PAGE(S) WHICH FORM A PART OF THIS DECLARATION

- ☐ Signature for third and subsequent joint inventors. Number of pages added: _____
- ☐ Signature by administrator (trix), executor (trix) or legal representative for deceased or incapacitated inventor. Number of pages added: _____
- ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 CFR 1.47. Number of pages added: _____

- ☐ Added pages to combined declaration and power of attorney for divisional, continuation, or continuation-in-part (CIP) application. Number of pages added: _____

- ☐ Authorization of attorney(s) to accept and follow instructions from representative

If no further pages form a part of this Declaration then end this Declaration with this page and check the following item.

- ☐ This declaration ends with this page

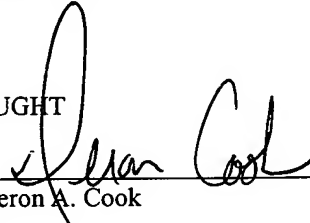
AFFIDAVIT OF DERON A. COOK

Now comes Deron A. Cook, being first duly sworn, states as follows:

1. My name is Deron A. Cook.
2. I am a patent attorney with Brouse McDowell, 388 South Main Street, Suite 500, Akron, Ohio 44311-4407.
3. Brouse McDowell serves as practioner for the Applicants ("Applicants").
4. I am one of the attorneys now responsible for case serial no. 10/805,689, entitled SPRAY BOOTH METHOD AND APPARATUS ("Patent Application").
5. The subject Patent Application was filed on March 22, 2004.
6. The Patent Application was filed without a signed Oath and Declaration.
7. On June 2, 2004, Applicants received a Notice to File Missing Parts of Non-Provisional application, requiring a signed Oath or Declaration and replacement drawings in compliance with 37 C.F.R. 1.84 and 37 C.F.R. 1.121.
8. On September 1, 2004, Applicants received a Notice of Incomplete Reply.
9. On information and belief, on or about November 17, 2004, Mr. Smith sent Mr. Spivak a letter with the Oath and Declaration requesting his signature for continued prosecution of the patent application.
10. On information and belief, Paul Spivak was initially unwilling to sign the Oath and Declaration as a result of a dispute over ownership of the Patent Application and the inclusion of Timothy Nidel as a co-inventor.
11. On or about January 7, 2005, Applicants filed a Petition For Filing By Other Than All Of The Inventors under 37 C.F.R. § 1.47(a). In support of the Petition, Applicant submitted the Affidavit of Timothy D. Smith, a patent agent with Brouse McDowell, who was initially one of the agents responsible for the Patent Application. Mr. Smith indicated in his Affidavit that he determined that there were four inventors of the Patent Application, Paul Spivak, Nicholas J. Mastandrea, Scott R. Thomason and Timothy Nidel.
12. On March 9, 2005, the Petition under 37 C.F.R. § 1.47(a) was dismissed.
13. On or about July 1, 2005, Timothy D. Smith left employment with Brouse McDowell.
14. As a result of Mr. Smith's departure the undersigned became one of the attorneys responsible for the Patent Application.
15. In August 2005, I contacted Scott Thomason to clarify whether Timothy Nidel was a co-inventor for the Patent Application. I explained to Mr. Thomason the requirements for inventorship and Mr. Thomason agreed that Mr. Nidel should not be a co-inventor.
16. On or about September 2, 2005, based on my conversation with Mr. Thomason, I sent Mr. Spivak, via certified mail, a draft of a statement prepared under 37 C.F.R. § 1.324(b)(1).
17. On or about September 14, 2005, I sent letters to inventors Mastandrea and Thomason enclosing draft statements prepared under 37 C.F.R. § 1.324(b)(1).
18. On or about September 14, 2005, I sent Timothy Nidel draft documents prepared under 37 C.F.R. § 1.324(b)(2) to remove him as a co-inventor of the Patent Application.
19. In late September 2005, Mr. Nidel contacted me, having received the documents removing him as an inventor. In the course of our conversation, Mr. Nidel agreed that he was not a co-inventor.

20. Inventors Mastandrea, Thomason and Spivak have all returned their statements under 37 C.F.R. § 1.324(b)(1) and Mr. Nidel has signed and returned his statement under 37 C.F.R. § 1.324(b)(2). Further, co-inventors Mastandrea, Thomason and Spivak have executed a new Oath and Declaration.
21. The undersigned believes that the inventorship entity has now been correctly identified to be Nicholas J. Mastandrea, Scott R. Thomason and Paul Spivak.
22. The undersigned has actively endeavored to clarify the inventorship entity with the inventors to secure appropriate corrective documents signed by the co-inventors and Timothy Nidel, and to file the appropriate amendment to correct inventorship in conjunction with a renewed petition under 37 C.F.R. § 1.47.

FURTHER AFFIANT SAYETH NAUGHT


Deron A. Cook

Sworn and subscribed to me this 7th day of October, 2005.


Notary Public

#624597v1



HEATHER M. BARNES, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date
Section 147.03 R.C.